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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85387; File No. SR-BOX-2019-07]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule on the BOX Options Market LLC (“BOX”) Facility to Add the Concepts of Appointed OFP and Appointed MM

March 21, 2019

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 11, 2019, BOX Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

The Exchange is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the Fee Schedule to amend the Fee Schedule [sic] on the BOX Options Market LLC (“BOX”) facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet website at <http://boxexchange.com>.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to amend Section VIII.A (Aggregate Billing) of the BOX Fee Schedule to add the concepts of “Appointed OFP” and “Appointed MM” which would increase opportunities for firms to qualify for various volume tier discounts and rebates.

The Exchange proposes to allow BOX Market Makers to designate an Order Flow Provider (“OFP”)⁵ as its “Appointed OFP” and to likewise allow OFPs to designate a Market

⁵ See BOX Rule 100(a)(46) (defining OFP as those Options Participants representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading).

Maker as its “Appointed MM.”⁶ As proposed, BOX Participants would effectuate the designation – of an Appointed OFP or Appointed MM – by each sending an email to the Exchange.⁷ The Exchange would view corresponding emails as acceptance of such an appointment and would only recognize one such designation for each party once every 12-months, which designation would remain in effect unless or until the Exchange receives an email from either party indicating that the appointment has been terminated.⁸ The Exchange believes that this requirement would impose a measure of exclusivity and would enable both parties to rely upon each other’s, and potentially increase, transaction volumes executed on the Exchange, which is beneficial to all BOX Participants.

The Exchange proposes to allow a Participant to opt to combine its volume with that of its Appointed OFP/Appointed MM to qualify for the various incentive programs offered on the Exchange. First, a Participant with an Appointed OFP/Appointed MM would be able to aggregate certain of its volumes with that of its Appointed OFP/Appointed MM for purposes of qualifying for certain (1) rebates available in the Tiered Volume Rebate for Non-Auction Transactions for Market Makers and Public Customers (“Tiered Volume Rebate for Non-Auction Transactions”), (2) fees assessed for Primary Improvement Orders, and (3) rebates available to all Public Customer PIP and COPIP Orders of 250 and under contracts that do not trade with their contra order (“BOX Volume Rebate”). Currently, a Participant can only aggregate its volume with that of its affiliate(s).⁹ The concept of Appointed OFP/Appointed MM would apply in instances where a Participant qualifies for a favorable fee by calculating

⁶ See proposed rule text Section VIII.A.4.

⁷ See id.

⁸ See id.

⁹ See BOX Fee Schedule.

qualifying volume through combining its transactions with that of Appointed OFP/Appointed MM. However, a Participant that has both an Appointed OFP/Appointed MM and any affiliate(s) may only aggregate volumes with one of those two, not both. Thus, the Exchange proposes to modify the Fee Schedule to provide that in calculating qualifications for volume of a Participant's activity, the Participant may request the Exchange to "aggregate its eligible activity with the eligible activity of either its affiliate(s) or its Appointed OFP or its Appointed Market Maker."¹⁰ The Exchange notes that other exchanges have adopted similar concepts.¹¹

The Exchange does not propose to modify any of the volume qualifications or the associated fees and rebates for the various incentive programs at this time.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,¹² in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposal is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the proposal would be available to all Market Makers and OFPs and the decision to be designated as an "Appointed OFP" or "Appointed MM" would be completely voluntary and a Participant may elect to accept this appointment or not. In addition, the proposed changes

¹⁰ See proposed language in Section VIII.A. of the BOX Fee Schedule.

¹¹ See Securities Exchange Act Release Nos. 77524 (April 5, 2016), 81 FR 21417 (April 11, 2016)(SR-BatsBZX-2016-04); 77526 (April 5, 2016), 81 FR 21405 (April 11, 2016)(SRBatsEDGX-2016-05); 77926 (May 26, 2016), 81 FR 35421 (June 2, 2016) (SR-CBOE- 2016-045); 78382 (July 21, 2016), 81 FR 49293 (July 27, 2016)(SR-Phlx-2016-62); 80416 (April 10, 2017), 82 FR 18028 (April 14, 2017)(SR-MIAX-2017-15).

¹² 15 U.S.C. 78f(b)(4) and (5).

would enable firms that are not currently eligible for certain rebates and discounts to avail themselves of these rebates/discounts, as well increase opportunities for firms that are currently eligible for certain rebates/discounts to potentially achieve a higher tier, thus qualifying to higher rebates/discounts. The Exchange believes these proposed changes would incentivize firms to direct their order flow to the Exchange. Specifically, the proposed changes would enable any Market Maker – not just those with affiliates – to pool certain volumes to potentially qualify its Appointed OFP for rebates/discounts available on the Exchange. Moreover, the proposed change would allow any OFP, by virtue of designating an Appointed MM, to aggregate certain of its own volumes with the activity of its Appointed MM, which would enhance the OFP's potential to qualify for additional rebates and discounts. The Exchange believes these proposed changes would incentivize Appointed OFPs and OFPs with an Appointed MM to direct order flow to the Exchange, which additional liquidity would benefit all market participants (including those market participants that are not currently affiliates and/or opt not to become an Appointed party) by providing more trading opportunities and tighter spreads. The Exchange also notes that the proposed changes are reasonable as other exchanges have adopted similar concepts for their own affiliate-based incentive programs.¹³

Similarly, the proposal, which would permit the opportunity for both parties to rely upon each other's, and potentially increase, transaction volumes, is reasonable, equitable and not unfairly discriminatory because it may encourage Market Makers to increase in order flow, capital commitment and resulting liquidity on the Exchange would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads.

¹³ See supra note 11.

Further, the Exchange believes that the proposal is reasonable and equitably allocated because it is beneficial to all Exchange Participants because it enables parties to rely upon each other's transaction volumes executed on the Exchange, and potentially increase such volumes. In turn, the potential increase in order flow, capital commitment and resulting liquidity on the Exchange would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads.

The proposal is also reasonable, equitable and not unfairly discriminatory because the Exchange would only recognize one such designation for each party once every 12 months (from the date of its most recent designation), a requirement that would impose a measure of exclusivity while allowing both parties to rely upon each other's transaction volumes executed on the Exchange, and potentially increase such volumes, again, to the benefit of all market participants.

Finally, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory and facilitates trading as it may benefit all market participants through increased order flow on the exchange, even to those market participants that are either currently affiliated by virtue of their common ownership or that opt not to become an Appointed OFP or Appointed Market Maker under this proposal. Further, as discussed herein, other exchanges have adopted similar concepts.¹⁴

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange

¹⁴ See supra note 11.

believes that the proposed changes are pro-competitive as they would increase opportunities for additional firms to qualify for various rebates and discounts, which may increase intermarket and intramarket competition by incenting Appointed OFPs and Appointed MMs to direct their orders to the Exchange, thereby increasing the volume of contracts traded on the Exchange and enhancing the quality of quoting. Enhanced market quality and increase transaction volume that results from the anticipated increase in order flow directed to the Exchange would benefit all market participants and improve competition on the Exchange.

With regard to aggregating volume for Primary Improvement Orders, the Exchange does not believe that the proposed change will burden competition by creating a disparity between the fees an initiator pays and the fees a competitive responder pays that would result in certain Participants being unable to compete with initiators. The Exchange believes that the differential is reasonable as responders are willing to pay a higher fee for liquidity discovery. Further, the Exchange believes these changes will help promote competition by providing incentives for market participants to submit these orders, and thus benefit all Participants trading on the Exchange. Further, the Exchange notes that other exchanges allow appointed aggregation for incentive programs (which include transactions in their improvement mechanisms) currently in place.¹⁵

¹⁵ See Cboe Exchange Inc. (“Cboe”) Fee Schedule, Affiliate Volume Plan (“AVP”) and Volume Incentive Plan (“VIP”). On Cboe, the Volume Incentive Program (“VIP”) credits each Trading Permit Holder (“TPH”) the per contract amount set forth in the VIP table for Public Customer orders (which include Simple AIM Orders, Simple non-AIM Orders, Complex AIM Orders and Complex non-AIM Orders) transmitted by that TPH which is executed electronically on the Exchange, provided the TPH meets certain volume thresholds. Further, the Affiliate Volume Plan (“AVP”) allows a Market Maker to qualify for additional discounts on that Market Maker’s LP Sliding Scale transaction fees when the Market Maker’s Affiliate or Appointed OFP qualifies for credits under the VIP. While Cboe credits its TPHs and their Appointed OFPs or Appointed MMs under their fee schedule, the Exchange believes the end result is comparable to the proposed change discussed herein. Here, the Exchange proposes to allow Participants to aggregate

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons discussed above, the Exchange believes that the proposed change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act¹⁶ and Rule 19b-4(f)(2) thereunder,¹⁷ because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments

volume for Primary Improvement Orders, while Cboe allows its TPHs to aggregate volume for their AIM Orders in order to receive a credit.

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 240.19b-4(f)(2).

may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2019-07 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2019-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-BOX-2019-07, and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,

Deputy Secretary.

¹⁸ 17 CFR 200.30-3(a)(12).

